

# **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

## **Minutes**

**July 16, 2002**

The Capital Projects and Bond Oversight Committee met on Tuesday, July 16, 2002, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Jodie Haydon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jodie Haydon, Chairman; Senator Robert Leeper, Vice Chairman; Senators Tom Buford and Bob Jackson; and Representatives Robert Damron, Paul Marcotte, and Jim Wayne.

Senator Jackson and Senator Leeper joined the meeting by video conference from Murray State University.

Guests testifying before the committee: Deputy Secretary Glenn Mitchell and Commissioner Armond Russ, Finance and Administration Cabinet; Roger Recktenwald, Kentucky Infrastructure Authority; Dan Shoemaker, Commonwealth Technologies; Ken Clevidence, Ben Crutcher, and Dr. Ben Carr, University of Kentucky; Bruce Bailey and Gary Cloyd, Kentucky Community and Technical College System; Bill Hintze, Governor's Office for Policy and Management; Doug Whitlock, Eastern Kentucky University; Bob Bender, Department of Parks; and Gordon Mullis, Office of Financial Management.

LRC Staff: Mary Lynn Collins, Pat Ingram, Nancy Osborne, Kevin Mason, and Shawn Bowen.

Representative Marcotte made a motion to approve the minutes of the June 18 meeting as submitted. The motion was seconded by Representative Wayne and passed by voice vote.

Chairman Haydon called on Ms. Mary Lynn Collins, Committee Staff Administrator, to review correspondence and information items included in members' folders. Ms. Collins reviewed a letter from Finance and Administration Cabinet Secretary Kevin Flanery regarding funding for an economic development bond project for Hardin County. This project was reviewed by the committee at its June meeting. At that meeting, the committee deferred action on this project until July. Ms. Collins said shortly after the June meeting, Secretary Flanery notified the committee by letter that he had decided to proceed with the land acquisition project, and the sale of bonds to finance the project.

Representative Wayne said a one month delay in the project was not an unreasonable request, and the Secretary's response concerned him.

The remaining correspondence items included certification by the Finance Cabinet and the Office of Financial Management of compliance with KRS 45A.877(3) regarding selection of underwriters' counsel for state bond issues; correspondence from the Council on Postsecondary Education to university foundations regarding statutory requirements for capital projects; and quarterly status reports on construction projects. Ms. Collins said also included in the folders were information items regarding the third round of FY 2001/02 budget reductions and the Governor's 2002/03 Executive Spending Plan. She noted that in the latest round of budget cuts \$120 million was taken from the Budget Reserve Trust Fund (BRTF), which depleted the fund.

Representative Wayne made a motion to request that the Executive Branch notify the Capital Projects and Bond Oversight Committee of any scope increases relative to capital projects, included in the Governor's Spending Plan, and that they be reviewed by the committee. The motion was seconded and approved by voice vote.

Ms. Collins next discussed a state leasing and space utilization study presented at the July 10 Capital Planning Advisory Board meeting. She said Secretary Flanery established an interagency group made up of senior facility management staff to look at how space is utilized. She said the Task Force is considering short-range, intermediate-range, and long-range initiatives to more efficiently use space the state owns or leases. These initiatives will include consolidation and regionalization of some existing offices.

Chairman Haydon said several months ago the committee expressed concern that large amounts of funds were remaining in some capital construction accounts long after projects were completed. At the request of the committee, the Finance and Administration Cabinet and the Governor's Office for Policy and Management reviewed this issue and recently adopted a new procedure to address closeout of accounts. He introduced Mr. Glenn Mitchell, Deputy Finance Secretary, to discuss the new procedure.

Mr. Mitchell said the Finance Cabinet formed a working group with representatives from the Governor's Office for Policy and Management and the Finance Cabinet to examine the closeout of capital construction projects. The working group determined that the statutory requirement to close project accounts would be interpreted to mean one year after the beneficial occupancy date (the date an agency moves into a building). He noted this time period corresponds to the one year warranty period typical of most construction contracts.

Mr. Mitchell said the Finance Cabinet will also change its capital construction quarterly report to reflect the date of beneficial occupancy. Each agency will be responsible for tracking the date by which the project account should be closed or provide

an explanation as to why the account remains open. If the account is to remain open beyond the one year period, representatives of the agency are to be prepared to appear before the Capital Projects and Bond Oversight Committee to explain.

Representative Wayne thanked Mr. Mitchell and other staff that worked on the guidelines. He suggested that the universities that manage their own capital construction (University of Kentucky, University of Louisville, and Murray State University), be asked to adopt a similar policy and provide similar reports to the committee.

In response to a question from Senator Buford, Mr. Mitchell said he did not think there was a need for statutory changes.

Senator Buford asked if there had been difficulty with exercising building warranties. Mr. Mitchell said the warranties have not been a problem, but sometimes once an agency moves in, conditions are discovered that require additional work. Funds left in the project account can be used to address these things before a project is closed.

In response to another question from Senator Buford, Mr. Mitchell said he did not know how much money is currently remaining in unclosed project accounts, but the new addendum to the quarterly report will include that information.

Chairman Haydon said at previous meetings the committee had questioned the size of engineering fees for several Kentucky Infrastructure Authority (KIA) projects. As a result, the committee asked the Authority's Executive Director, Roger Recktenwald, to discuss how engineering fees are reviewed by the Authority. He called on Mr. Recktenwald, who introduced Mr. Dan Shoemaker, an engineer from Commonwealth Technologies.

Mr. Recktenwald, Executive Director of the Kentucky Infrastructure Authority (KIA) reported that the KIA Board has adopted the U. S. Department of Agriculture, Rural Development Administration's rural utility services engineering fee schedule for the 2020 Program. He noted there was a copy of this fee schedule in members' packets. This Rural Development program allocates about \$30 million per year in low interest loans and grants throughout the state for eligible communities that typically have a population of 10,000 or less. The federal program has partnered with virtually every state agency involved in water and sewer services, and has forms to cover virtually every possible circumstance relating to a small community.

KIA has been working with every state and federal agency engaged in funding water and sewer utilities to analyze the various regulations, and streamline the application for communities seeking funding from multiple sources. The staff has met routinely to address every item associated with a community's development of a water and sewer application as well as the long range management operation of its system. The federal fee

schedule, based on a percent of the construction cost, has been used for years. The fees are based on estimated construction and not all the other ancillary issues associated with a project in terms of equipment, etc. The scale addresses both design as well as resident inspection of that project. It has been proven that this is an adequate and equitable way to assess the value of a particular project and the services associated with it. Generally, it allows for services, such as preliminary engineering reports, to be done on a project so that the agencies can have an understanding of the real need.

Mr. Recktenwald said KIA would identify for the committee any time engineering fees are permitted to exceed the scale for whatever reason, whether due to complexity or if the particular site issues are extraordinary. However, he said they are determined to maintain that scale. The fee schedule has been adopted as is; KIA has not altered it.

Mr. Recktenwald noted that KIA is also requiring a universal procurement process across the board for all agencies, whether or not they have adopted the model procurement code. He passed out a draft procedures book for all water and wastewater projects in Kentucky, and said they hope to have the new procedures in place by January 2003.

Mr. Shoemaker, a consulting engineer that accompanied Mr. Recktenwald to the table, said that the Rural Development program is a very well entrenched program and is highly respected by the consultants that are doing work in this field. He commended Mr. Recktenwald and the KIA for using the Rural Development model. It is bureaucratic, but in a positive way. He said engineering consultants all understand how it works, and know what is required to get projects completed.

Representative Wayne thanked everyone who worked on this. He wanted to clarify for the record whether the fee schedule and other procedures discussed will apply to all KIA projects. Mr. Recktenwald responded that they are hoping it will eventually apply to all Commonwealth projects, any dollar that comes from the state to a community for development of utilities would follow in this particular track.

Representative Wayne asked whether any waivers from the fee schedule would be reviewed and approved by KIA. Mr. Recktenwald responded affirmatively. Representative Wayne asked that any waivers be reported to the committee, and Mr. Recktenwald said they would.

Representative Wayne also commended Senator Buford because he has been very vigilant on this and brought it to the attention of the committee.

Chairman Haydon said the first order of new business was a project report submitted by the University of Kentucky (UK) for a new lease. Mr. Ken Clevidence, Director, UK Capital Projects Management Division, introduced Mr. Ben Crutcher,

Associate Vice President, and Dr. Ben Carr, Vice President for Auxiliary and Campus Services.

Mr. Clevidence first updated the committee on previous issues. He said by the fall, all university housing units, including sororities and fraternities, will have sprinklers installed. He then updated members on the Administration Building, which was heavily damaged by fire last year. Reconstruction of this building is anticipated to begin February 2003, and will take approximately 12-16 months to complete.

Mr. Clevidence then introduced Dr. Carr to discuss the university's project report. Dr. Carr said in March of this year, UK became aware of a considerable increase in enrollment at the university with a subsequent increase in housing requests. He said at that time, they had approximately 700 housing applicants more than the university could accommodate. Consequently, Dr. Todd declared an emergency, and a Request for Proposal (RFP) was issued to the local housing community to determine the availability of units for students. He said the RFP had several requirements, including proximity to campus and availability of convenient bus routes, a requirement that students be housed together, and reasonable cost. In response to the RFP, the university received four responses. University Commons, owned by Capstone Properties, was selected. The university will lease 72 four-bedroom apartments at a cost of \$1,049,760 (\$3,645 per student) for a nine-month term.

Representative Wayne asked if the provisions of the Michael Minger Act will be applied. Dr. Carr responded that they would.

In response to another question from Representative Wayne, Mr. Crutcher said the price for the students residing at University Commons but not under the university's lease is approximately \$4,000 per year, and the price for the students under the lease will be \$3,645.

In response to questions by Senator Buford, Dr. Carr said there are sprinklers in the apartments, and he thought the RFP specified a \$1 million liability policy. Dr. Carr said the university police will coordinate with the Lexington police regarding the leased apartments. He also noted that students will pay a \$50 damage deposit, the same amount charged in the residence halls.

Representative Damron made a motion to approve the new lease for UK. The motion was seconded by Representative Wayne and passed by voice vote.

Chairman Haydon introduced Mr. Bruce Bailey, Director of the Division of Property Management, Kentucky Community and Technical College System (KCTCS), to report a new lease in Fayette County.

Mr. Bailey introduced Mr. Gary Cloyd, the newly named Executive Director of the KCTCS Office of Facilities Management. Mr. Bailey said in June of this year KCTCS requested an emergency declaration for leased space for the Fayette County area to house their information technology staff. The lease will be located at 805 Newtown Circle at the Newtown Business Center, and the annual cost is \$121,055. Chairman Haydon said no action was required for the emergency lease.

Chairman Haydon then asked Mr. Bill Hintze, Deputy State Budget Director, Governor's Office for Policy and Management, and Commissioner Armond Russ, Department for Facilities Management, to discuss the project report submitted by the Finance and Administration Cabinet. Mr. Hintze first reported an allocation of \$900,000 from the Emergency Repair, Maintenance and Replacement Fund to repair the Electrical Distribution System at Eastern Kentucky University (EKU). Mr. Hintze said the allocation will be matched with \$900,000 restricted funds (agency receipts). He said the university had sought authorization from the General Assembly to replace the rest of the electrical system at a cost of \$10.5 million. However, since that project is proposed to be financed from agency funded bonds, it is not among those moving forward in the Governor's Spending Plan.

Representative Wayne said according to an article in the Lexington *Herald-Leader*, the university knew about this problem 10 years ago. He asked why this need was not identified in the university's Six-Year Capital Plan. Mr. Doug Whitlock, Vice President for Administrative Affairs, EKU, assured committee members that the statement in the *Herald-Leader* was taken out of context, and said they would have included the need in their Six-Year Capital Plan if they had been aware of it. He said over the years, EKU has been very proud of its utilization of its own resources for campus maintenance. He said the electrical system is completely underground, and the newest portion of the system is approaching 30 years old. Chairman Haydon said since the project was deemed an emergency, no action is necessary for this project.

Mr. Hintze then discussed another allocation from the Emergency Fund. Maysville Community College received a \$1,300,000 allocation for a mold/fungi abatement project in the Administration and Denham Buildings. This allocation is in addition to the \$900,000 emergency allocation for the same problem reviewed by the committee in December 2001 and \$1.8 million reviewed by the committee in May. (An amount of \$135,000 has also been allocated from Kentucky Community and Technical College System maintenance funds for the project.) Chairman Haydon said no action was required for this project.

Mr. Hintze next reported an allocation of \$150,000 from the Capital Construction and Equipment Purchase Contingency Account for the Mineral Mound State Park Golf Course project. Mr. Hintze said this project was authorized by the 1998 General Assembly at \$5,000,000. The contingency funds will be used to award a contract for the

golf course maintenance building, pole barn, a chemical building, utilities, an unpaved access road, and parking.

Representative Marcotte asked about the other golf courses under construction. Mr. Hintze said approximately \$17.5 million in additional funding is needed to complete six of the seven golf courses authorized during the 1998 Regular Session to a level whereby they can be opened to the public. Mr. Bob Bender, Department of Parks, said the seventh golf course project at My Old Kentucky Home in Bardstown is the only one completed. Five others, including Mineral Mound, are nearing completion of construction. Construction began last month on the course at Kincaid Lake in Northern Kentucky, and should be completed in approximately one year.

Senator Buford asked why this money could not be taken out of the Parks Capital Maintenance and Renovation Fund and if any of the other golf courses will need additional funds for items left out in the original bid. Mr. Hintze said there are things that are required to open the courses to the public in all six courses (including Mineral Mound). These courses will be maintained on a custodial basis until additional funds become available.

Mr. Hintze said they did not use the Parks Capital Maintenance Fund for this project because that fund is being used to help fund park operating costs. The Governor's Spending Plan suspends the Parks Maintenance Fund statute to permit that fund to be used for operating costs, given the Department's lean budget.

In response to questions from Senator Buford, Mr. Hintze said this is the first time they have used the fund for ordinary operating expenses, and that is only proposed to be effective in the current biennium.

Senator Jackson made a motion to approve the contingency allocation. The motion was seconded by Senator Leeper and passed by voice vote.

Chairman Haydon said he was proud of the completed golf course in Bardstown. He said the project came in under budget, was well designed, and is enjoying record numbers of play.

Mr. Hintze next reported a cost overrun for the Kentucky Higher Education Assistance Authority (KHEAA) Office Building. This project was authorized by the 1998 General Assembly for \$10,710,000, and received a scope increase of \$90,000 in August 2001. Mr. Hintze said the Finance and Administration Cabinet is requesting approval of a \$1,200,000 scope increase to finish the top floor of the building, which was originally planned to be unfinished "shell" space. That floor will be leased to other state agencies. The cost of the scope increase will be shared by the three agencies that will be leasing as well as KHEAA: the Secretary of the Public Protection and Regulation Cabinet, the

Division of Occupations and Professions, and the Kentucky Housing Corporation. Mr. Hintze said KHEAA will utilize \$850,000 in federal funds for the scope increase and the remaining three agencies will pay \$350,000.

Representative Wayne made a motion to approve the scope increase. The motion was seconded by Senator Buford and approved by voice vote. The revised project scope is \$12,000,000.

The final project Mr. Hintze reported was an unbudgeted federally funded project for a Helicopter Repair Hangar to be constructed at Bluegrass Station in Lexington. Mr. Hintze said the \$1,036,000 project cost will be split 50/50 between federal funds and restricted funds. The hangar is to be used to repair helicopters used overseas in support of the war of terrorism.

Senator Buford made a motion to approve the unbudgeted project. The motion was seconded by Representative Marcotte and passed by voice vote.

Mr. Don Mullis, Executive Director, Office of Financial Management, presented the agency's bond activity report. He first reported a new bond issue: Kentucky Housing Corporation (KHC) Housing Revenue Bonds 2002, not to exceed \$90 million. The proceeds will be used to raise funds for the purchase of mortgages for first-time low and moderate income Kentucky homebuyers and to gain a savings from the refunding of existing securities.

Representative Wayne a motion to approve the KHC bond issue. The motion was seconded by Senator Buford and passed by voice vote.

Mr. Mullis next presented another new bond issue: KHESLC Student Loan Revenue Bonds, 2002 Senior Series A-1 (taxable), Series A-2 (taxable), and Series A-3 (tax-exempt), with gross proceeds of \$150,000,000. The proceeds will be used to originate, acquire, or refinance student loans for students attending Kentucky institutions.

Representative Damron made a motion to approve the new bond issue for KHESLC. The motion was seconded by Representative Marcotte and passed by voice vote.

Mr. Mullis presented follow-up reports for: KHC Housing Revenue Bonds, 2002 Series A and C (\$76,220,000); Eastern Kentucky University Housing System Revenue Bonds, Series O, dated June 1, 2002 (\$5,470,000); Kentucky Asset/Liability Commission (ALCo) Project Notes, 2002 General Fund Series (\$12,775,000); and ALCo Project Notes, 2002 Agency Fund Series (\$6,360,000). Chairman Haydon said no action is required for follow-up reports.



Senator Buford asked about the status of the Hardin County Fiscal Court economic development bond project. Mr. Mullis said to the best of his knowledge, the funding for this project remains intact, and there have been no agreements formalized with regard to the expenditure of those funds.

Senator Buford asked if the Hardin County Fiscal Court is still going to be responsible for this project. Mr. Mullis said it is his understanding that the approvals provided for the project would require the Hardin County Fiscal Court to be responsible for the project and for the Kentucky Economic Development Finance Authority (KEDFA) to be involved.

Senator Buford asked if the Hardin County Fiscal Court is considered a political subdivision of the Commonwealth. Mr. Mullis said he did not know, but would find out.

Chairman Haydon said there was only one locally-funded school bond issue, Wolfe County, submitted to the committee for review this month. He said all disclosure information has been filed, and no further action on the bond issue is required.

Chairman Haydon said the committee's next meeting is scheduled for August 20 at Western Kentucky University, 10:00 a.m. EDT.

With there being no further business, Representative Damron made a motion to adjourn the meeting. The meeting adjourned at 2:30 p.m.